



Shoreland Zoning Newsletter



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Share the News

Please distribute to the Code Enforcement Officer and municipal boards. To save on costs, we will only mail the newsletter to municipal offices, but we can email to individuals; just email request to stephenie.maclagan@maine.gov. New and old newsletters are available at: <http://www.maine.gov/dep/blwq/docstand/szpage.htm#publicationssz>

About the News

For 20 years, the Shoreland Zoning Newsletter has been helping municipal officials better understand common issues regarding shoreland zoning administration and enforcement. Your feedback is always welcome. Submit comments, and topics for articles, to Stephenie.

Last Call for Adopted Amendments

The Shoreland Zoning Unit is preparing the list of municipalities expecting state-imposed ordinances (SIO). The deadline for municipalities to adopt amendments was July 1, 2009, but SIO are not immediately effective. The Board of Environmental Protection must adopt SIO for the municipalities.

This process will occur in two phases. The first phase will be this year when the Board will begin adopting SIO for municipalities that are not progressing toward adoption. The second phase will occur later, when the Board will adopt SIO for the remaining municipalities that are unable to adopt all required amendments.

If your municipality is hoping to adopt required amendments, make sure the Unit knows, so your municipality is not put in the first phase. Contact information is on page 4. Also remember that notification must be mailed to landowners whose properties are

being proposed for resource protection 14 days before the planning board meets to set the date for the hearing.

If your municipality is not listed on the insert but has already adopted amendments, make sure they were submitted for Department review. If you believe they were submitted, you may contact us to find out if they were reviewed after this list was drafted for publishing. Formal approval is required even if drafts were previously reviewed.

If your municipality is expecting to receive a state-imposed ordinance, make sure you're on the list below, and if you're not, please contact us. SIO must be drafted, maps created, and landowners notified, so we'll be contacting you to acquire landowner information. In the meantime, your current ordinance remains effective.

These lists address the ordinance text only, and not the zoning map that may or may not require additional amendments.

Municipalities expecting state-imposed ordinances

Amity	Cornish	Gilead	Moose River	Talmadge
Atkinson	Crawford	Glenburn	Newfield	Troy
Baldwin	Crystal	Hersey	Princeton	Vanceboro
Bancroft	Durham	Isle Au Haut	Randolph	Wade
Bradford	East Millinocket	Lagrange	Sebec	Waite
Carmel	Eastbrook	Limestone	Springfield	Waldo
Charleston	Etna	Ludlow	Stacyville	Wellington
Charlotte	Exeter	Meddybemps	Steuben	Winn
Chelsea	Farmingdale	Milo	Stow	Woodville
Corinth	Garland	Monroe		

The road to compliance begins with the application

Have you ever done a site inspection after a permit was issued and found that the project is out of compliance, and in some cases doesn't come close to what you thought was approved when the permit was issued? Sometimes the project is out of compliance because the owner or builder simply ignored what the application and permit stated, but too often the reason for noncompliance is that the application was deficient. Check out the "Your Questions" article on page 3 for the components of a good application form.

After reviewing the general information of the application, the next step is checking that the project is allowed in that zoning district and will comply with the standards of the ordinance. Part of this process is comparing the written description with the site plan submitted as part of the application. Site plan drawings must depict all dimensions.

Recently, the Unit was notified of a replacement building that was constructed with a second story; yet when the permitting authority issued the permit, it had thought that the proposed building would be only one story. A review of the application revealed that the site plan drawing did not include the height of the structure. Furthermore, the replacement structure was non-conforming and, thus, subject to the 30% expansion rule. The second story resulted in a 100% expansion. The assumption that the proposed project met the standards led to a violation of the local ordinance and the Shoreland Zoning Act. This violation could have been prevented if the permitting authority had 1) required an adequate site plan that includes a drawing of the building height 2) required written dimensions of the existing and proposed buildings for the expansion limitations, and 3) compared the site plan drawings with the written dimensions. 🐸

Overlapping subsurface wastewater disposal provisions

Recently amended ordinances now require that the clearing or removal of woody vegetation necessary to site a new (i.e. first-time) subsurface sewage disposal system, and its associated fill extensions, extend no closer than 75 feet from the shoreline.

Clearing vegetation for new systems cannot extend closer than 75 feet.

The State of Maine Subsurface Wastewater Disposal Rules (Rules) contain other standards, which require that first time systems be setback 100 feet from the

shoreline of a perennial water body. The Rules also require a 25-foot setback from a wetland of special significance, for example a forested wetland that is within 250 feet of a water body or wetland. These setbacks do not apply to fill extensions.

Replacement systems may have reduced setbacks according to the Rules, but vegetation clearing within the shoreline setback must be no more than necessary. 🐸

Is it really a hazard tree?

Over the past number of years the Unit has noticed a growing trend where people want trees within a buffer area removed for various reasons: better view, fear of large trees, or dead, diseased, or dying trees close to a structure. Often times when the removal of such trees wouldn't comply with clearing standards a landowner will state that the trees are 'hazard trees'.

What is a hazard tree? Is a tall tree next to a

camp a hazard tree? What if the tree could fall on a flower garden? Is the tree diseased? Does that even matter?



Considering the frequency of this scenario and numerous questions that arise, the Unit is planning to include training in hazard tree assessment as part of our CEO workshops in 2010. Stay tuned for details. 🐸

Municipalities with adopted text amendments that have been approved

Abbot	Detroit	Jonesboro	North Berwick	Sedgwick
Addison	Dexter	Kennebunk	North Yarmouth	Shapleigh
Alfred	Dover-Foxcroft	Kennebunkport	Northfield	Sherman
Anson	Dresden	Kingfield	Northport	Shirley
Appleton	Dyer Brook	Knox	Oakland	Skowhegan
Arrowsic	Eagle Lake	Lamoine	Ogunquit	Smithfield
Bath	East Machias	Lebanon	Old Town	Smyrna
Beals	Easton	Leeds	Orient	Sorrento
Beddington	Eddington	Levant	Orland	South Portland
Belmont	Edgecomb	Liberty	Orono	Southport
Berwick	Eliot	Limerick	Otis	Standish
Bingham	Ellsworth	Limington	Otisfield	Starks
Blaine	Eustis	Lincolnton	Owls Head	Stetson
Blue Hill	Falmouth	Lisbon	Oxford	Stockton Springs
Boothbay Harbor	Fayette	Litchfield	Palermo	Stoneham
Bowdoinham	Fort Fairfield	Littleton	Palmyra	Strong
Bowerbank	Fort Kent	Livermore	Paris	Sullivan
Bradley	Frankfort	Lovell	Parkman	Sumner
Breman	Franklin	Lowell	Parsonsfield	Swanville
Bridgton	Freedom	Lucerne	Penobscot	Sweden
Bristol	Freeport	Lyman	Peru	Thomaston
Brooklin	Frenchville	Machias	Phippsburg	Topsham
Brooksville	Friendship	Madawaska	Pittsfield	Tremont
Brownfield	Fryeburg	Madison	Pittston	Trenton
Brownville	Georgetown	Manchester	Poland	Union
Brunswick	Gouldsboro	Mariaville	Portage Lake	Unity
Buckfield	Grand Isle	Mars Hill	Porter	Upton
Bucksport	Gray	Mechanic Falls	Portland	Van Buren
Burnham	Greenbush	Medford	Pownal	Vassalboro
Bustins Island	Greene	Merrill	Prospect	Verona Island
Camden	Greenville	Mexico	Rangeley	Vienna
Cape Elizabeth	Greenwood	Milbridge	Readfield	Vinal Haven
Caratunk	Hancock	Milford	Richmond	Wales
Caribou	Hanover	Minot	Ripley	Wallagrass
Carrabasset Valley	Harpswell	Monmouth	Rockland	Waltham
Casco	Harrison	Monson	Rockport	Warren
Chebeague Island	Hartford	Montville	Rome	Westbrook
Cherryfield	Hartland	Moscow	Roque Bluffs	Westfield
Chesterville	Hermon	Mount Vernon	Sabattus	Westport Island
Clinton	Hiram	Naples	Saco	Willimantic
Columbia	Holden	New Limerick	Saint Agatha	Wilton
Corinna	Hollis	New Sharon	Saint Albans	Windham
Cumberland	Houlton	New Sweden	Saint George	Windsor
Cushing	Hudson	Newcastle	Sanford	Winslow
Dayton	Jackman	Newry	Scarborough	Winterport
Dedham	Jackson	Nobleboro	Searsmont	Woolwich
Deer Isle	Jay	Norridgewock	Searsport	Yarmouth
	Jefferson			York

One CEO to Another

Tools for the Trade: As most code officers are aware, the requirements and terrain of the Shoreland Zone can complicate the inspection process. Dwight Tilton, CEO, outlines his essential equipment. Also, be dressed for the inspection; look and be professional. Remember good boots and plenty of fly dope.

The most important piece of equipment is a copy of your Shoreland Zoning Ordinance. It is impossible to remember everything in the ordinance, but be familiar with where it's located and use it as an aid to describe issues with the land owner.

Have a good note book for writing notes and calculations while on site, don't wait until you return to the office, when important details may be forgotten. Remember, your notes might become public information.

The tool you will use the most is a tape measure; get a fiberglass or plastic tape at least 100 feet long. Steel tapes require too much maintenance, and checking the diameter of trees is difficult. A wooden carpenter's tape/ruler is sometimes useful because of its rigidity.

Keep tools in your vehicle for approximating slope or horizontal distances on steep slopes. A carpenter's level or pop level are options. Another tool is a line level with a nylon line. With these tools, you'll be prepared, and can have fun and enjoy your work. 🐸

Court Cases

The Guidelines for Municipal Shoreland Zoning Ordinances, from which local ordinances are drafted, requires that violations of the ordinance be corrected. Sometimes this means an illegal structure must be removed. In other words, a violation cannot be bought.

"We cannot allow a penalty for a violation to simply be a cost of doing business."

The State of New Hampshire has a similar requirement. The Commissioner of the Department of Environmental Services, Thomas Burack, commented after a recent settlement, "We cannot allow a penalty for a violation to simply be a cost of doing business."

The recent lawsuit was settled when the landowner removed the structures that did not meet the standards of the law and restored the altered area. The landowner was also fined with a portion of the fine suspended to ensure future compliance. 🐸

Your Questions

Q: What are the components of a good permit application?

A: For most permitting activities, the Shoreland Zoning Unit has a model permit application form that can be provided to you. Of course an application form must include space for general information, such as names and contact information; project location and the zoning district; and description of the proposed project, including space for writing the dimensions of the lot, structures and uses that exist and are being proposed. Space for the applicant's calculations of the 30% expansion limitation rule is needed. If your municipality has the alternative expansion rule, space is still needed for calculations in case a partial removal/reconstruction is proposed. While a "to-scale" site plan drawing is also required, nothing should be left to interpretation from that drawing. The form must include space or instructions for attaching said site plan drawing, which must include specific dimensions and setbacks of the lot, and existing and proposed structures and uses. Multiple drawings of proposed buildings are needed to see footprint and height dimensions. Depiction of any area to be cleared of vegetation must be required, to ensure that the project will comply with the clearing standards. Recall that an erosion and sedimentation control plan is required for any project that involves soil disturbance or filling activities and which requires a permit, and this includes depiction on the site plan of where and what control measures will be in place. A good application and review process will ensure that the applicant gets out to a good start. 🐸

Notes from the Shoreland Zoning Unit


Variances must be recorded in the Registry.

There are a few State laws that don't make an appearance in the shoreland zoning ordinance, which you may not be aware of. One Land Use Regulation provision states that the variance certificate granted must be recorded in the registry of deeds within 90 days of the date of approval in order for it to be valid (30-A §4353, 5). Some municipalities add a note in their ordinance indicating this. A note could also be added to the variance application or certificate.

Biennial Code Officer Reports due now!

The Unit sent out reporting forms to all municipalities. The Shoreland Zoning Act and local ordinances require that code officers submit a biennial report to DEP. We're mandated to report information to the legislature, and these forms greatly help us. If you need another form, or have questions, please contact Rich Baker.

Upcoming Nonpoint Source Pollution Trainings:

Erosion Control, 3/4, Orono Black Bear Inn
 3/10, Calais Motor Inn
 4/7, Presque Isle Inn and Convention Center
 LPI Training, 3/11, Auburn Riverwatch Hilton Garden
 4/21, Brewer Jeff's Catering
 Contractor Certification, 3/31 and 4/28 Jeff's Catering
 For registration and other information: <http://www.maine.gov/dep/blwq/newslet/center.pdf>
State Planning Office training information is at <http://www.maine.gov/spo/ceo/training/index.htm> 

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